

633A.3109 Notice to creditors, claimants, heirs, spouse, and beneficiaries.

1. As used in this section, “*heir*” means only such person who would, in an intestate estate, be entitled to a share under section 633.219.

2. If the notice provided for in subsection 3 has not been published and if a probate administration is commenced for the decedent within one year of the decedent’s date of death and notice is properly given pursuant to section 633.230 or 633.304, a creditor’s rights shall be determined under those sections and section 633A.3104.

3. Except as provided in subsections 2 and 4, the rights of creditors against assets of the trust and those of heirs to contest the trust shall be established or terminated by the trustee giving notice as follows:

a. The trustee shall publish a notice once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the decedent was a resident at the time of death, and in any county of which the decedent was a nonresident but in which some real estate of the trust is located. If the decedent was not a resident of Iowa, but the principal place of administration is in Iowa, the trustee shall publish notice in the county that is the principal place of administration pursuant to section 633A.6102.

b. As soon as practicable, the trustee shall give notice by ordinary mail to the surviving spouse, the heirs of the decedent, and each beneficiary under the trust whose identities are reasonably ascertainable, at such person’s last known address.

c. If at any time during the pendency of the trust administration the trustee has knowledge of the name and address of a person believed to own or possess a claim which will not, or may not, be paid or otherwise satisfied during administration, the trustee shall provide a notice by ordinary mail to each such creditor at the creditor’s last known address stating the decedent settlor’s date of death and that the claim shall be forever barred unless proof of the creditor’s claim is mailed to the trustee by certified mail, return receipt requested, within the later to occur of sixty days from the second publication of notice or thirty days from the date of mailing of the notice.

d. The notice in paragraphs “a” and “b” shall include notification of the decedent’s death, and the fact that any action to contest the validity of the trust must be brought within the later to occur of sixty days from the date of the second publication of the notice made pursuant to paragraph “a” or thirty days from the date of mailing of the notice pursuant to paragraph “b” and that any claim against the trust assets will be forever barred unless proof of a creditor’s claim is mailed to the trustee by certified mail, return receipt requested, within the later to occur of sixty days from the second publication of notice or thirty days from the date of mailing the notice, if required. A person who does not make a claim within the appropriate period is forever barred.

4. If notice has not been published or given as provided in subsection 2 or 3, a claimant of a deceased settlor of a revocable trust must bring suit to enforce its claim against the assets of the decedent’s trust within one year of the decedent’s death or be forever barred from collecting against the trust assets unless the trustee has failed to comply with subsection 3, paragraph “c”. The one-year limitation period shall not be extended by the commencement of probate administration for the settlor more than one year following the settlor’s death.

5. The notice described in subsection 3 shall be substantially in the following form:

To all persons regarding, deceased, who died on or about, (year) You are hereby notified that is the trustee of the Trust. At this time, no probate administration is contemplated with regard to the above-referenced decedent’s estate.

Any action to contest the validity of the trust must be brought in the District Court of County, Iowa, within the later to occur of sixty days from the date of second publication of this notice, or thirty days from the date of mailing this notice to all heirs of the decedent, spouse of the decedent, and beneficiaries under the trust whose identities are reasonably ascertainable. Any suit not filed within this period shall be forever barred.

Notice is further given that any person or entity possessing a claim against the trust must mail proof of the claim to the trustee at the address listed below via certified mail, return receipt requested, by the later to occur of sixty days from the second publication of this notice or thirty days from the date of mailing this notice if required, or the claim shall be forever barred, unless paid or otherwise satisfied.

Dated this day of, (year).....
Trust

.....
 Trustee
 Address:

.....
 Date of second publication day of, (year)

6. The proof of claim must be in writing stating the party's name and address and describing the nature and amount of the claim, if ascertainable, and accompanied by an affidavit of the party or a representative of the party verifying the amount that is due, or when the amount will become due, that no payments have been made on the claim that are not credited, and that no offsets to the claim exist.

7. At any time after receipt by the trustee of a proof of claim, the trustee may give the party submitting the claim a written notice of disallowance of the claim. The notice shall be given by certified mail, return receipt requested, addressed to the party at the address stated in the claim, and to the attorney of record of the party submitting the claim. Such notice of disallowance shall advise the party submitting the claim that the claim has been disallowed and will be forever barred unless suit is filed against the trustee to enforce the claim within thirty days of the date of the mailing of the notice of disallowance. If suit is filed, the provisions in chapter 633 relating to actions to enforce a claim shall apply with the trust and trustee substituted for the estate and personal representative.

8. The trustee and creditor may agree to extend the limitations period for filing an action to enforce the claim. If the creditor fails to properly file its claim within the established time period or bring an action to enforce its claim within the established time period, the creditor's claim shall be forever barred.

99 Acts, ch 125, §33, 109; 2000 Acts, ch 1150, §18

C2001, §633.3109

2002 Acts, ch 1119, §101; 2005 Acts, ch 38, §54, 55

CS2005, §633A.3109

2006 Acts, ch 1104, §8, 16

[SP] 2006 amendments apply to trusts of settlors who die on or after July 1, 2006; 2006 Acts, ch 1104, §16